

IC 31-16-14

Chapter 14. Actions for Support of Dependents by Dependent Spouse

IC 31-16-14-1

Grounds for bringing action

Sec. 1. (a) A dependent spouse may bring an action in a circuit or superior court to obtain support from the other spouse for the benefit of the dependent spouse and the dependent children in the custody of the dependent spouse if:

- (1) the other spouse has deserted the dependent spouse or dependent children without cause and without sufficient support;
- (2) the other spouse has:
 - (A) been convicted of a felony;
 - (B) been imprisoned; and
 - (C) left the dependent spouse or dependent children without sufficient support;
- (3) the other spouse:
 - (A) becomes incapacitated; or
 - (B) neglects to provide support for the dependent spouse or dependent children;because the other spouse is a habitual drunkard;
- (4) the other spouse:
 - (A) joins a sect or denomination that requires a renunciation of the marriage or that forbids the spouses to cohabit as husband and wife; and
 - (B) renounces the marriage or refuses to live with the dependent spouse in a marital relationship; or
- (5) the other spouse has been adjudged insane.

(b) A dependent spouse may join other persons as codefendants in an action brought under subsection (a) if the other persons:

- (1) are indebted to either spouse; or
- (2) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-2

Commencement of action; contents of complaint

Sec. 2. (a) A dependent spouse may bring an action under section 1 of this chapter by filing a complaint against the other spouse and against other persons who may be joined as codefendants in the action under section 1(b) of this chapter. The complaint must contain the following:

- (1) An allegation of the marriage of the dependent spouse and the other spouse.
- (2) The name and age of each dependent child living with or in the custody of the dependent spouse.
- (3) A statement that the dependent spouse may bring the action

for a reason described in section 1(a) of this chapter.

(4) The most specific possible description of the real and personal property of the other spouse that is in Indiana.

(5) An allegation of the probable value of the real and personal property of the other spouse that is in Indiana.

(6) The circumstances and mode of life of the dependent spouse and other spouse.

(7) The amount necessary to support the dependent spouse and dependent children.

(b) If other persons are joined as codefendants in the action under section 1(b) of this chapter, the complaint described in subsection (a) must also contain the following:

(1) An allegation that the other persons:

(A) are indebted to either spouse; or

(B) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

(2) An allegation of the amount of indebtedness under subdivision (1)(A).

(3) An allegation of the value of the rights, credits, and choses in action described in subdivision (1)(B).

As added by P.L.1-1997, SEC.8.

IC 31-16-14-3

Process

Sec. 3. Process in actions brought under this chapter is the same as in other civil actions.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-4

Hearing; determination; order to pay money; judicial sale or lease; receivership

Sec. 4. The court shall hold a hearing on the complaint and make a determination. If the court finds that the allegations in the complaint are true, the court may do any of the following:

(1) Order the defendant spouse to pay an amount that is just, equitable, and in the best interests of the dependent spouse and dependent children.

(2) Order the defendant spouse's real or personal property, or both, to be sold to the highest bidder on terms and upon notice as directed by the court.

(3) Order:

(A) the defendant spouse's real property or a part of the defendant spouse's real property to be leased; and

(B) the proceeds of the lease to be applied to the support of the dependent spouse and dependent children.

(4) Appoint a receiver of the defendant spouse's estate, require the receiver to take an oath and obtain a bond, and order the receiver to:

(A) reduce the estate to possession;

- (B) collect the defendant spouse's rights, credits, and choses in action;
 - (C) manage, sell, mortgage, or lease the defendant spouse's real property; and
 - (D) sell the defendant spouse's personal property.
- (5) Order other parties who are joined in the action under section 1(b) of this chapter to:
- (A) pay indebtedness owed to the defendant spouse; or
 - (B) relinquish possession or control of the defendant spouse's rights, credits, and choses in action or other property;
- to provide support for the dependent spouse and dependent children.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-5

Dependent spouse's collection of other spouse's debts; lease or mortgage of other spouse's real property; disposition of proceeds

Sec. 5. If the court orders support to be paid under this chapter, the court may, without appointing a receiver, authorize the dependent spouse to:

- (1) collect debts owed to the other spouse; and
- (2) lease or mortgage any part of the other spouse's real property and apply the proceeds of the mortgage or lease to the support of the dependent spouse and dependent children.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-6

Action to modify order made under this chapter

Sec. 6. An action to modify an order made under this chapter may be initiated by filing a complaint and providing notice in accordance with sections 2 and 3 of this chapter.

As added by P.L.1-1997, SEC.8.

IC 31-16-14-7

Sales of real property

Sec. 7. If real property is sold under this chapter:

- (1) the sale must be made by a receiver or commissioner appointed by the court for that purpose;
- (2) the sale must be of the entire fee;
- (3) the court may confirm the sale;
- (4) the court may order deeds;
- (5) the court may require the purchaser to:
 - (A) obtain a mortgage; or
 - (B) provide security; and
- (6) the purchaser's title may not be questioned collaterally if:
 - (A) the defendant spouse had personal service of process; or
 - (B) the defendant spouse:
 - (i) left Indiana or could not be found; and
 - (ii) received service of process by publication.

As added by P.L.1-1997, SEC.8.